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EXAMINER

BELIVEAU, SCOTT E

| ART UNIT | PAPER NUMBER |
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2614

9

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Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/693,115

Applicant(s)

JERDING ET AL.

Examiner

Scott Beliveau

Art Unit

2614

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 47-92 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 47-92 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 29 December 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
- a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

**DETAILED ACTION*****Priority***

1. Applicant's claim for domestic priority under 35 U.S.C. 119(e) is acknowledged.

However, the provisional application no. 60/170,302 upon which priority is claimed fails to provide adequate support under 35 U.S.C. 112 for claims 47-92 of this application. While the provisional application comprising two documents entitled "Concepts Requirements Document – SARA VOD Release 1.0" and "Description of Enhancements for the Scientific-Atlanta Resident Application (SARA) Release 1.14" do not explicitly disclose the particular distribution of "color setting data", "text setting data", and/or "graphic setting data" in a manner that is subsequently utilized by a "plurality of applications". While the "Description of Enhancements for the Scientific-Atlanta Resident Application (SARA) Release 1.14" reference discloses that the user may utilize selectable color templates for the IPG (Page 41 – 44), the manner of distributing the information is unclear as well as the particular usage of the templates by a "plurality of applications". Furthermore, details pertaining to the "set-top terminal" such that it comprises "memory" and a "processor" do not appear to be disclosed. Accordingly, in light of the provisional application the instant application will be examined in view of its filing date of 19 October 2000.

2. With respect to applicant's claim for priority as a continuation-in-part to co-pending application No. 09/590,488, the earlier application discloses the overall system architecture of the utilized by the instant application (Figures 1-2) and illustrates similar GUI screen-shots. The subject matter of the '488 application, however, does not describe the claimed subject matter of the instant application pertaining to the particular distribution of "color

Art Unit: 2614

setting data”, “text setting data”, and/or “graphic setting data” in a manner that is subsequently utilized by a “plurality of applications”. Accordingly, the claims of the instant application shall not receive priority to the earlier application and shall be examined in view of the filing date (19 October 2000).

### *Drawings*

3. The drawings were received on 29 December 2003. These drawings are approved.

### *Response to Arguments*

4. Applicant's arguments with respect to previously claims 1-46 have been considered but are moot as all of the previously presented claims have been cancelled. Accordingly, a new ground(s) of rejection to address the newly presented claims 47-92 follows.

### *Claim Rejections - 35 USC § 102*

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

6. Claims 47, 49-52, 54-57, 59, 61, 62, 64, 69, 72, 75, 77, 78, 81, 84, 85 and 90 are rejected under 35 U.S.C. 102(b) as being anticipated by Akins, III et al. (US Pat No. 5,850,218).

In consideration of claims 47 and 75, the Atkins, III et al. reference discloses a system and method for providing information received by a “television set-top terminal” [14] from a “server device” [10] (Figure 1). The set-top terminal [14] is provided with “color setting data” which is stored in the “memory” [137] (Col 9, Lines 34-39; Col 15, Lines 7-24; Col 18, Line 55 – Col 19, Line 7) that enables a “plurality of applications” as specified/programmed by the system operator (Col 19, Lines 42-51) to “access . . . said color setting data . . . to determine at least one color of at least one respective item presented to a viewer” via a “television that is coupled to the STT” [20]. The term “application” per its common use definition according to the Merriam-Webster’s Collegiate Dictionary 10<sup>th</sup> edition may merely refer to a use to which something is put. Accordingly, the “color setting data” is subsequently put to a variety of uses in conjunction with particular on-screen displays.

Claims 49 and 77 are rejected wherein “the at least one respective item presented to the user comprises a display window” (Col 14, Lines 41-53).

Claims 50 is rejected wherein the “color setting data” is “stored” at the STT [14] (Col 15, Lines 48-63; Col 18, Line 55 – Col 19, Line 7).

Claim 51 is rejected wherein “the at least one respective item presented to the user comprises text” (Col 15, Lines 25-38).

Claims 52 and 78 are rejected wherein “the at least one respective item presented to the user comprises graphics” (Col 15, Lines 7-8).

Claims 54 and 55 are rejected wherein the “color setting data is utilized by each of the plurality of applications to determine at least one foreground color” or “background color of the at least one respective item presented to the user” (Col 15, Lines 25-38).

Claim 56 is rejected wherein the “color setting data” is utilized by “each of the plurality of applications to determine a color scheme corresponding to items presented to the viewer” (Col 15, Lines 25-38). For example, a “scheme” may define a particular pairing of a letter color against a particular background color.

In consideration of claims 57 and 81, the Atkins, III et al. reference discloses a system and method for providing information received by a “television set-top terminal” [14] from a “server device” [10] (Figure 1). The set-top terminal [14] is provided with “text setting data” which is stored in the “memory” [137] (Col 9, Lines 34-39; Col 13, Line 43 – Col 14, Line 17; Col 18, Line 55 – Col 19, Line 7) that enables a “plurality of applications” as specified/programmed by the system operator (Col 19, Lines 42-51) to “access . . . said text setting data . . . to determine at least one visual characteristic of at least one respective word presented to a viewer” via a “television that is coupled to the STT” [20]. The term “application” per its common use definition according to the Merriam-Webster’s Collegiate Dictionary 10<sup>th</sup> edition may merely refer to a use to which something is put. Accordingly, the “text setting data” is subsequently put to a variety of uses in conjunction with particular on-screen displays.

Claim 59 is rejected wherein the “text setting data” is “stored” at the STT [14] (Col 15, Lines 48-63; Col 18, Line 55 – Col 19, Line 7).

Claims 61 and 84 are rejected wherein “the at least one visual characteristic specified by the text setting data is selected from a group consisting of font type and font size” (Col 13, Lines 46-52).

In consideration of claims 62 and 85, the Atkins, III et al. reference discloses a system and method for providing information received by a “television set-top terminal” [14] from a “server device” [10] (Figure 1). The set-top terminal [14] is provided with “graphics setting data” which is stored in the “memory” [137] (Col 9, Lines 34-39; Col 14, Lines 27-53; Col 15, Lines 48-63; Col 18, Line 55 – Col 19, Line 7) that enables a “plurality of applications” as specified/programmed by the system operator (Col 19, Lines 42-51) to “access . . . said graphics setting data . . . to determine at least one graphical characteristic of at least one respective graphical item presented to a viewer” via a “television that is coupled to the STT” [20]. The term “application” per its common use definition according to the Merriam-Webster’s Collegiate Dictionary 10<sup>th</sup> edition may merely refer to a use to which something is put. Accordingly, the “graphics setting data” is subsequently put to a variety of uses in conjunction with particular on-screen displays.

Claim 64 is rejected wherein the embodiment further “stores” the “graphics setting data at the STT” (Col 15, Lines 48-63; Col 18, Line 55 – Col 19, Line 7)

Claim 69 is rejected wherein “the at least one graphical characteristic specified by the graphical setting data is color” (Col 14, Lines 41-53).

Claims 72 and 90 are rejected wherein the Atkins, III et al. reference discloses a system and method for providing information received by a “television set-top terminal” [14] from a “server device” [10] (Figure 1). The set-top terminal [14] is provided with “color setting data”, “text setting data”, and “graphics setting data” which is stored in the “memory” [137] (Col 9, Lines 34-39; Col 15, Lines 7-24; Col 18, Line 55 – Col 19, Line 7) that enables a “plurality of applications” as specified/programmed by the system operator (Col 19, Lines

Art Unit: 2614

42-51) to “access . . . said color setting data . . . to determine at least one color of at least one respective item presented to a viewer”, to “access . . . said text setting data . . . to determine at least one visual characteristic of at least one respective word presented to a viewer”, and to “access . . . said graphics setting data . . . to determine at least one graphical characteristic of at least one respective graphical item presented to a viewer” via a “television that is coupled to the STT” [20]. The term “application” per its common use definition according to the Merriam-Webster’s Collegiate Dictionary 10<sup>th</sup> edition may merely refer to a use to which something is put. Accordingly, the various forms of “setting data” are subsequently put to a variety of uses in conjunction with particular on-screen displays.

7. Claims 57-59, 62-66, 68, 70, 81, 82, and 85-88 are rejected under 35 U.S.C. 102(b) as being anticipated by LaJoie et al. (US Pat No. 5,850,218).

In consideration of claims 57 and 81, the LaJoie et al. reference a system and method for providing information “received by a television set-top terminal” [6] from a “server device” [15/16] (Col 10, Lines 20-41) to a user. The “client device” [6] comprises “memory for storing data” [32] including “text setting data” associated with the displayed Interactive Program Guide application (Col 13, Lines 36-65; Col 30, Lines 35-63). The “text setting data” or data defining additional information regarding programs as well as identifying the program itself is utilized by a “plurality of applications” comprising other user interface applications associated with different subscribers or applications associated with particular services of the user interface including the interactive program guide and VOD services (Col 4, Line 66 – Col 4, Line 11). Alternatively, the “applications” per its common use definition according to the Merriam-Webster’s Collegiate Dictionary 10<sup>th</sup> edition may merely refer to a



Art Unit: 2614

use to which something is put. The “text setting data” is subsequently put to a variety of uses in conjunction with particular EPG functions. Accordingly, the “text setting data” may be utilized by “each of the plurality of applications to determine at least one visual characteristic of at least one respective word”, namely what particular letters the word comprises, as “presented to a viewer” via a “television coupled to the STT” (Col 8, Lines 25-28).

Claims 58 and 82 are rejected wherein the “plurality of applications” comprise a “video-on-demand application” and an “interactive program guide (IPG) application” wherein the VOD application is configured to “enable video-on-demand rentals via the STT” (Col 7, Line 65 – Col 8, Line 10) and the IPG application is configured to “provide a list of broadcast programs available to the viewer via the STT” (Col 6, Lines 14-46).

Claim 59 is rejected wherein the embodiment further “stores the text setting data at the STT” (Col 13, Lines 45-50).

In consideration of claims 62 and 85, the LaJoie et al. reference a system and method for providing information “received by a television set-top terminal” [6] from a “server device” [15/16] (Col 10, Lines 20-41) to a user. The “client device” [6] comprises “memory for storing data” [32] including “graphics setting data” associated with the display format of the Interactive Program Guide application (Col 13, Lines 36-65; Col 30, Lines 35-63). The “graphic setting data” defines what the particular layout, the particular shading of cells when highlighted, and channel logos/icons of a “plurality of applications” comprising other user interface applications associated with different subscribers or applications associated with particular services of the user interface including the interactive program guide and VOD services (Col 4, Line 66 – Col 4, Line 11). Alternatively, the “applications” per its common

Art Unit: 2614

use definition according to the Merriam-Webster's Collegiate Dictionary 10<sup>th</sup> edition may merely refer to a use to which something is put. The "graphics setting data" is subsequently put to a variety of uses in conjunction with particular EPG functions. Accordingly, the "graphic setting data" may be utilized by "each of the plurality of applications to determine at least one visual characteristic of at least one respective graphical item presented to a viewer" via a "television coupled to the STT" (Col 8, Lines 25-28), as illustrated in Figures 16 and 17.

Claims 63 and 86 are rejected wherein the "plurality of applications" comprise a "video-on-demand application" and an "interactive program guide (IPG) application" wherein the VOD application is configured to "enable video-on-demand rentals via the STT" (Col 7, Line 65 – Col 8, Line 10) and the IPG application is configured to "provide a list of broadcast programs available to the viewer via the STT" (Col 6, Lines 14-46).

Claim 64 is rejected wherein the embodiment further "stores the graphic setting data at the STT" (Col 13, Lines 45-50).

Claims 65 and 87 are rejected wherein as illustrated in Figure 16 "at least one respective graphical item presented to the user comprises a display window" [346].

Claims 66, 68, 70, and 88 are rejected wherein the as illustrated in Figure 16 "at least one respective graphical item presented to the user comprises an edge of a display window", "an edge thickness", and an "edge continuity".

8. Claims 47, 57, 62, 72, 75, 81, 85, and 90 are rejected under 35 U.S.C. 102(e) as being anticipated by Kretz et al. (US Pat No. 6,502,241).

In consideration of claims 47 and 75, the Kretz et al. reference discloses a method and arrangement for transmitting and receiving an electronic television program guide. The embodiment comprises a server [1] and a “television set-top terminal” [2] also comprising a “memory” [24] for storing “color setting data” associated with the database (Col 2, Lines 33-59; Col 4, Lines 20-48). The database stored in memory comprises is subsequently utilized by “each of the plurality of applications” including an EPG applications, electronic shopping applications, etc. (Col 11, Lines 17-24; Col 9, Lines 15-30) to “determine at least one color of at least one respective item” as “presented to a viewer via a television that is coupled to the STT” [22] in conjunction with the electronic program guide (Col 3, Lines 19-41).

In consideration of claims 57 and 81, the Kretz et al. reference discloses a method and arrangement for transmitting and receiving an electronic television program guide. The embodiment comprises a server [1] and a “television set-top terminal” [2] also comprising a “memory” [24] for storing “text setting data” such as information defining a font associated with the database (Col 2, Lines 33-59; Col 4, Lines 20-48). The database stored in memory comprises is subsequently utilized by “each of the plurality of applications” including an EPG applications, electronic shopping applications, etc. (Col 11, Lines 17-24; Col 9, Lines 15-30) to “determine at least one visual characteristic of at least one respective word” as “presented to a viewer via a television that is coupled to the STT” [22] in conjunction with the electronic program guide (Col 3, Lines 19-41).

In consideration of claims 62 and 85, the Kretz et al. reference discloses a method and arrangement for transmitting and receiving an electronic television program guide. The embodiment comprises a server [1] and a “television set-top terminal” [2] also comprising a

Art Unit: 2614

“memory” [24] for storing “graphics setting data” associated with the database (Col 2, Lines 33-59; Col 4, Line 48 – Col 5, Line 63). The database stored in memory comprises is subsequently utilized by “each of the plurality of applications” including an EPG applications, electronic shopping applications, etc. (Col 11, Lines 17-24; Col 9, Lines 15-30) to “determine at least one graphical characteristic of at least one respective graphical item” as “presented to a viewer via a television that is coupled to the STT” [22] in conjunction with the electronic program guide (Col 3, Lines 19-41).

In consideration of claims 72 and 90, the Kretz et al. reference discloses a method and arrangement for transmitting and receiving an electronic television program guide. The embodiment comprises a server [1] and a “television set-top terminal” [2] also comprising a “memory” [24] for storing “color setting data”, “graphics setting data”, and “text settings data” associated with the database (Col 2, Lines 33-59; Col 4, Line 20 – Col 5, Line 63). The database stored in memory comprises is subsequently utilized by “each of the plurality of applications” to “determine at least one color of at least one respective item”, to “determine at least one graphical characteristic of at least one respective graphical item”, and to “determine at least one visual characteristic of at least one respective word” as “presented to a viewer via a television that is coupled to the STT” [22] in conjunction with the electronic program guide (Col 3, Lines 19-41).

***Claim Rejections - 35 USC § 103***

9. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

Art Unit: 2614

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

10. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).
11. Claims 47, 48, 71, 72, 74-76, 90 and 92 are rejected under 35 U.S.C. 103(a) as being unpatentable over LaJoie et al. (US Pat No. 5,850,218).

In consideration of claims 47 and 75, the LaJoie et al. reference a system and method for providing information "received by a television set-top terminal" [6] from a "server device" [15/16] (Col 10, Lines 20-41) to a user. The "client device" [6] comprises "memory for storing data" [32] associated with the displayed Interactive Program Guide application (Col 13, Lines 36-65; Col 30, Lines 35-63). However, it is unclear from the illustrations such that the embodiment further comprises "color setting data", as the illustrations comprise B/W outline sketches. Accordingly, it would have been obvious to one having ordinary skill in the art at the time the invention was made to utilize "color setting data" in conjunction with the "plurality of applications" associated with the advanced cable services supported through the user interface since it was known in the art at the time of the invention to utilize color in conjunction with user interfaces. Furthermore, it would have been obvious to one having

ordinary skill in the art at the time of the invention to utilize “color setting data” in conjunction with the “plurality of applications” for the purpose of presenting the user with a user interface that is ascetically pleasing.

The aforementioned, “color setting data” is utilized by a “plurality of applications” associated with the user interface comprising the IPG applications associated with different subscribers or applications associated with the particular offered services/functions associated with the user interface including the interactive program guide and VOD services (Col 4, Line 66 – Col 4, Line 11). Accordingly, the “color setting data” may be utilized by “each of the plurality of applications to determine at least one color of at least one respective item” as “presented to a viewer” via a “television coupled to the STT” (Col 8, Lines 25-28).

Claims 48 and 76 are rejected wherein the “plurality of applications” comprise a “video-on-demand application” and an “interactive program guide (IPG) application” wherein the VOD application is configured to “enable video-on-demand rentals via the STT” (Col 7, Line 65 – Col 8, Line 10) and the IPG application is configured to “provide a list of broadcast programs available to the viewer via the STT” (Col 6, Lines 14-46).

In consideration of claim 71, the aforementioned LaJoie et al. reference discloses “graphics setting data”, however, it does not explicitly disclose nor preclude that such data further defines a “window transition animation characteristic”. It would have been obvious to one having ordinary skill in the art at the time of the invention to “define” and utilize “window transition animation” such as cuts, wipes, fades, etc. since the existence of such “window transition animation” techniques was known in the art and would advantageously

Art Unit: 2614

provide an ascetically pleasing and visually interesting means for transitioning between the various windows.

Claims 72 and 90 are rejected as previously presented in the rejections of claims 47, 57, 62, 75, 81, and 85. The LaJoie et al. reference a system and method for providing information “received by a television set-top terminal” [6] from a “server device” [15/16] (Col 10, Lines 20-41) to a user. The “client device” [6] comprises “memory for storing data” [32] including “text setting data”, “graphics setting data”, and “color settings data” associated with the displayed Interactive Program Guide application (Col 13, Lines 36-65; Col 30, Lines 35-63). The “text setting data” or IPG data defining additional information regarding programs as well as identifying the program itself is utilized by a “plurality of applications” comprising other user interface applications associated with different subscribers or applications associated with particular services of the user interface including the interactive program guide and VOD services (Col 4, Line 66 – Col 4, Line 11). The “graphic setting data” defines what the particular layout, the particular shading of cells when highlighted, and channel logos/icons of a “plurality of applications” comprising other IPG applications associated with different subscribers or applications each associated with particular services including the interactive program guide and VOD services (Col 4, Line 66 – Col 4, Line 11). Similarly, the “color setting data” may define what colors to use for particular items for the purposes of providing a user interface that is ascetically pleasing. As aforementioned, the “text setting data” may be subsequently utilized by “each of the plurality of applications to determine at least one visual characteristic of at least one respective word”, namely what particular letters the word comprises, the “graphic setting data” may be utilized by “each of

Art Unit: 2614

the plurality of applications to determine at least one visual characteristic of at least one respective graphical item presented to a viewer”, and the “color setting data” may be utilized by “each of the plurality of applications to determine at least one color of at least one respective item” as “presented to a viewer” via a “television coupled to the STT” (Col 8, Lines 25-28).

Claims 74 and 92 are rejected wherein the “plurality of applications” comprise a “video-on-demand application” and an “interactive program guide (IPG) application” wherein the VOD application is configured to “enable video-on-demand rentals via the STT” (Col 7, Line 65 – Col 8, Line 10) and the IPG application is configured to “provide a list of broadcast programs available to the viewer via the STT” (Col 6, Lines 14-46).

12. Claims 53, 56, 60, 67, 79, 80, 83, and 89 are rejected under 35 U.S.C. 103(a) as being unpatentable over LaJoie et al. (US Pat No. 5,850,218) in view of Lemmons (US Pat No. 6,481,011).

In consideration of claims 53, 56, 79, and 80, the LaJoie et al. reference utilizes a predefined visual scheme in so far as the reference does not explicitly disclose or preclude the any modification of the visual scheme developed and transmitted by the headend [2]. The Lemmons reference discloses a method wherein a viewer may “select . . . from a menu that provides a plurality of color options” so as to “determine a color scheme corresponding to items presented to the viewer” (Col 1, Line 66 – Col 2, Line 26). Accordingly, it would have been obvious to one having ordinary skill in the art at the time of the invention to modify the LaJoie et al. embodiment, if necessary, to provide a means by which a user may “select” a “color scheme corresponding to items presented to the viewer” as taught by



Art Unit: 2614

Lemmons for the purpose of providing a more sophisticated method in which a user may accurately highlight programming of the type the user likes (Lemmons: Col 1, Lines 26-59).

Claims 60 and 83 are rejected wherein the Lemmons reference discloses that the “at least one visual characteristic specified by the text setting data is selected by the viewer from a menu that provides a plurality [of] text characteristic options” wherein the user may specify the a text characteristic such as the color or the pattern of a particular text object (Lemmons: Figure 14; Col 5, Lines 53-63).

Claims 67 and 89 are rejected wherein Lemmons reference discloses that the “at least one visual characteristic specified by the graphics setting data is selected by the viewer from a menu that provides a plurality of graphical characteristic options” wherein the user may specify the a graphical characteristic such as the color or the pattern of a particular text object (Lemmons: Figure 14; Col 5, Lines 53-63).

In consideration of claims 73 and 89, the claim does not necessarily require that the “at least one graphical characteristic, the at least one visual characteristic, [and the] at least one color” are necessarily mutually exclusive. For example, selection of a color by the user for a particular object, as taught by Lemmons, serves to define both the “graphical characteristic” of a graphical item such as a cell of the interface and/or program title as well as the “visual characteristic” of at least one respective word associated with the program title.

### *Conclusion*

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure as follows. Applicant is reminded that in amending in response to a rejection of

Art Unit: 2614

claims, the patentable novelty must be clearly shown in view of the state of the art disclosed by the references cited and the objections made.

- The Coleman et al. (US Pat No. 5,844,620) reference discloses an interactive on-screen visual interface that is configurable such that additional fonts, new icons, various color schemes for background, foreground, text, and highlighting may be provided (Col 19, Lines 29-38).
- The Adams et al. (US Pat No. 6,108,042) reference discloses an interactive video system that facilitates the creation and development of graphical interface objects for use with a television display.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Art Unit: 2614


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Scott Beliveau whose telephone number is 703-305-4907.

The examiner can normally be reached on Monday-Friday from 9:00 a.m. - 6:30 p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John W. Miller can be reached on 703-305-4795. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-HELP.

SEB  
January 27, 2004



JOHN MILLER  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 2600